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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

ARIK HERMAN,

Plaintiff,

vs.

RECEIVABLES PERFORMANCE

MANAGEMENT, LLC,

Defendant

Case No.:

COMPLAINT

Unfair Debt Collection Practices;

Violation of 15 USC § 1692 (FDCPA)

Jury Demand

PRELIMINARY STATEMENT

1. This is an action for money damages brought by a consumer pursuant to the Fair Debt Collection Practices Act (“FDCPA”), 15 U.S.C. § 1692, et seq, which prohibits abusive, deceptive and unfair debt collection practices.
2. Plaintiff’s claims arise from defendants attempts to collect a debt in Oregon through the means and instrumentalities of interstate commerce and the mails.

JURISDICTION

3. Jurisdiction of this Court arises under 15 U.S.C. § 1692k(d).
4. Venue is proper in this District under 28 U.S.C. § 1391 because the acts and transactions occurred here, Plaintiff resides here, and Defendant transacts business here.

PARTIES

5. Plaintiff, Arik Herman, is a natural person who resides in the City of Portland, County of Multnomah, State of Oregon, and is a “consumer” as that term is defined by 15 U.S.C. § 1692a(3).
6. Defendant Receivables Performance Management, LLC., (hereinafter *RPM*), is a foreign Limited Liability Company domiciled in Washington, operating from an address of 20816 44TH AVE W, Lynnwood WA 98036 and a debt collector as defined by 15 U.S.C. § 1692a(6).

FACTUAL ALLEGATIONS

7. Plaintiff allegedly incurred a financial obligation that was primarily for personal, family or household purposes and is therefore a “debt” as that term is defined by 15 U.S.C. § 1692a(5), namely a debt which resulted from the use of a Verizon phone service.
8. Sometime thereafter, the alleged debt was assigned, placed with, or otherwise transferred to Defendants for collection from the Plaintiff.
9. On December 19th, 2007, “Stephen L”, an agent acting within the scope of his agency or an employee acting within the scope of his employment with Defendant RPM, called Arik Herman’s father, Terry Herman (hereinafter father), and informed the father that he was an employee of Verizon and asked to speak with Arik.
10. The father informed him that he was not Arik. At that time Stephen L informed the father that Mr. Herman had an outstanding debt that needed to be paid right then with a credit card or Verizon would sue Mr. Herman.

11. Mr. Herman verified the identity of RPM by calling the number that was left with the father, (866) 212-7408 and spoke to “Kelly” who looked up the account and confirmed that “Stephen L” had called.
12. At no time did RPM send a follow up letter to Mr. Herman.

FIRST CLAIM FOR RELIEF

1. Plaintiff incorporates by reference all of the above paragraphs of this Complaint as though fully stated herein.
2. Contacting a third party and lying about RPM’s identity to that third party is a violation of 15 U.S.C. § 1692(b)(1).
3. Contacting a third party and stating that the consumer owes a debt is a violation of 15 U.S.C. § 1692(b)(2) and (c)(b).
4. The failure of RPM to send written notice per U.S.C. § 1692(g)(a) within five days of Mr. Herman contacting RPM is a violation of U.S.C. § 1692(g)(a).
5. As a result of each and every Defendants’ violation of the FDCPA, Plaintiff has statutory damages in an amount up to \$1,000.00 pursuant to 15 U.S.C. § 1692k(a)(2)(A).
6. Actual damages to be determined pursuant to 15 U.S.C. § 1692k(a)(1).
7. Plaintiff is entitled to reasonable attorney’s fees and costs pursuant to 15 U.S.C. § 1692k(a)(3) from each and every Defendant.

WHEREFORE, Plaintiff prays that judgment be entered against each and every Defendant for:

- for an award of statutory damages of \$1,000.00 pursuant to 15 U.S.C. §1692k(a)(2)(A) against each and every Defendant;

- for an award of actual damages to be determined pursuant to 15 U.S.C. §1692k(a)(1) against each and every Defendant
- for an award of costs of litigation and reasonable attorney's fees pursuant to 15 U.S.C. § 1692k(a)(3) against each and every Defendant;

Respectfully submitted,

Dated: December 9, 2008

By: /s/ Bret Knewton
Bret Knewton, OSB #03355
Attorney for Plaintiff